



SOWELL GRAY STEPP & LAFFITTE, LLC
ATTORNEYS AND COUNSELORS AT LAW

July 23, 2007

VIA ELECTRONIC FILING AND HAND-DELIVERY:

Charles L.A. Terreni, Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

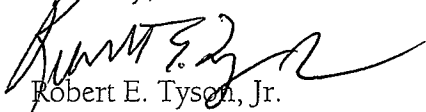
Re: Wyboo Plantation Utilities, Inc.'s Application for Extension of Service
Area
Docket No. 2007-135-WS
Our File No.: 5952/1501

Dear Mr. Terreni:

Enclosed for filing please find the original and two copies of a Petition to Intervene on behalf of Our Town Development Company, LLC and Deer Creek Plantation Properties Incorporated.

Please file the original and return the clocked copies via our courier.

Sincerely,



Robert E. Tyson, Jr.

Robert E. Tyson, Jr.
rtyson@sowell.com
DD 803.231.7838

RETjr::jlw

Enclosures

cc: (all with enclosures)
Mark S. Wrigley
Lowndes Pope, Esquire
Nanette Edwards, Esquire
Shealy Reibold, Esquire

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**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

Docket No.: 2007-135-WS

IN THE MATTER OF:)	
)	
Wyboo Plantation Utilities, Inc.'s)	<u>PETITION TO INTERVENE OUT OF</u>
Application for Extension of Service Area)	<u>TIME ON BEHALF OF OUR TOWN</u>
)	<u>DEVELOPMENT COMPANY, LLC AND</u>
)	<u>DEER CREEK PLANTATION</u>
)	<u>PROPERTIES INCORPORATED</u>

Pursuant to Rule 103-836 of the Regulations of the Public Service Commission of South Carolina (the "Commission"), Our Town Development Company, LLC and Deer Creek Plantation Properties Incorporated (hereafter "Petitioner") hereby petition the Commission to intervene as a party of record in the above-captioned proceeding. In support hereof, Petitioner shows as follows:

INTRODUCTION

1. Petitioner owns property known as Deer Creek Plantation located in an area already served by Wyboo Plantation Utilities, Inc. ("Wyboo").

2. Wyboo is a public utility, as defined by S.C. Code Ann. § 58-5-10(3) (Supp. 2005), providing water and sewer service to the public for compensation in certain areas of Clarendon County and Sumter County, South Carolina and is therefore a public utility subject to the jurisdiction of the Commission.

3. Pursuant to the terms of the Commission Directive, dated April 11, 2007, in Docket No. 2205-13-WS, Wyboo has filed an Application in this Docket seeking Commission approval of Wyboo's service area. Petitioner believes Wyboo's Motion for an "Extension" is not completely accurate. Rather, Petitioner believes a more accurate Motion would be entitled a request "validating" or "confirming" Wyboo's existing service area.

4. Presently, Wyboo's customers reside in and around the Wyboo Plantation subdivision in Clarendon County and in Sumter County.

5. Petitioner's immediate interest in this case concerns service to 69 lots in Deer Creek Subdivision, Phase II (the "69 Lots"). Deercreek Phase II is an area Wyboo seeks to have included in its service area.

6. Currently, Wyboo serves part of the Subdivision known as Deer Creek Phase I or Blue Heron Point. Wyboo also currently serves Clubway Commons, a part of Deer Creek Plantation. Deer Creek II originally was part of the larger single tract of land which was part of the Wyboo Plantation Development.

7. Petitioner believed, as did Wyboo and hundreds of Wyboo customers, that the Commission already had included these areas as part of Wyboo's service area.

8. Petitioner's belief that Deer Creek Phase II resided within Wyboo's service area is based on prior Commission action. In Docket No. 2001-184-WS, the Commission approved the purchase by Mark S. Wrigley of the stock of Wyboo Plantation Utilities, Inc. In the Application seeking approval of the transfer of stock, Mr. Wrigley attached all the relevant documents including the Stock Purchase Agreement and a letter from Clarendon County stating the County had issued a franchise to Wyboo granting Wyboo the authority to serve throughout Clarendon County.

9. Clarendon County's actions inferred Wyboo had the necessary authority to serve the areas around Wyboo Plantation.

10. In Paragraph 2.2 of the Stock Purchase Agreement attached to the Application in Docket No. 2001-184-WS, it states, "...and the extension of any lines and facilities required to meet the needs of present customers or potential customers within the area for which Wyboo Utilities has

received a franchise from Clarendon County.” Clearly, Wyboo indicated to the Commission its understanding its service area included all of the area it was already serving in Wyboo Plantation.

11. In response to Mr. Wrigley’s Application, the Commission issued Order No. 2001-749, where it stated, “The Regulations require us to look at all applicable information prior to granting of such a Certificate. We have examined all relevant factors in the present case, and we hereby *(grant the required Certificate.)*” Clearly, the Commission’s Order contemplated Wyboo’s service area to include all areas in and around Wyboo Plantation.

12. In fact, until the Commission’s Directive in the rate case, many entities, including the Petitioner, believed Deer Creek was included in the Wyboo service area due to the Commission’s 2001 Order sanctioning the terms of the Application granting transfer of ownership, Clarendon County’s franchise, and other regulatory actions.

13. Further evidence of the belief the area was included in Wyboo’s service area is the South Carolina Department of Health and Environmental Control’s approval to serve Petitioner’s 69 lots without any additional plant construction since Wyboo currently has sufficient water and sewer capacity.

14. Additionally, the Bank of Clarendon has interests similar to the Petitioner. The Bank of Clarendon’s perception was that all areas in and around Wyboo Plantation were included in the service area. The Bank of Clarendon has constructed a new building in an area already receiving service from Wyboo; therefore, it had no reason to question Wyboo’s service area. Without Commission approval of Wyboo’s Application, the Bank of Clarendon, like the Petitioner, will not have a provider of water and sewer service.

15. In its Directive issued on July 11, 2007, the Commission denied Wyboo's request to cancel the hearing concerning its service area request and authorized the prefiled testimony deadlines.

16. After the Commission denied Wyboo's Motion to Cancel the hearing, the Petitioner felt compelled to intervene in this Docket to inform the Commission that any Commission delay in approving Wyboo's service area request hurts the Petitioner. Both Our Town Development Company, LLC and Deer Creek Plantation Properties Incorporated bought property with the understanding that Wyboo had the necessary Commission authority to provide water and sewer service. Since water and sewer was already provided in areas around its 69 acres and since Wyboo had begun negotiations over the terms and condition of service, the Petitioners never had any reason to doubt Wyboo had the necessary Commission approval. Thus, tying service and operational inquiries of Wyboo to approval of the service area requests only serves to harm the Petitioners and not necessarily Wyboo.

17. The Petitioner states its position as follows: The Petitioner seeks Commission approval of the Wyboo application such that the Petitioner can receive water and sewer service. The Petitioner understands the Commission has significant questions and concerns with the operations of Wyboo. The Petitioner does not take any position on those operational and regulatory concerns. However, if the Commission fails to approve the perfunctory service area request, the Petitioner will suffer significant financial losses. The Petitioner maintains Commission approval of Wyboo's request would be consistent with all the relevant parties understanding of Wyboo's service area. Additionally, there are no other practical alternatives for water and sewer service; therefore, the land can not be developed. Approving service areas traditionally has been a routine task and the Petitioner asks the Commission treat Wyboo's request as such.

18. All plant capacity required to serve Petitioner's current phase of development has been installed.

19. Therefore Petitioner seeks to intervene to protect its interests and ability to obtain water and sewer service from Wyboo.

20. Petitioner requests the Commission grant Wyboo's request without a hearing since the Commission has other open dockets concerning Wyboo's operation and service issues. However, if the Commission determines a hearing is necessary, the Petitioner intends to present testimony and exhibits at any evidentiary hearing before the Commission in this Docket.

21. Petitioner's address is as follows:

Doug Rhodes
Santee Lakes Real Estate at Wyboo Plantation
2538 Players Course Drive
Manning, SC 29102
P: (803) 478-7888

John C. Bruffey, Jr.
Drew, Eckl & Farnham, L.L.P.
880 West Peachtree Street
P.O. Box 7600
Atlanta, GA 30357

22. Petitioner is represented by:

Robert E. Tyson, Jr.
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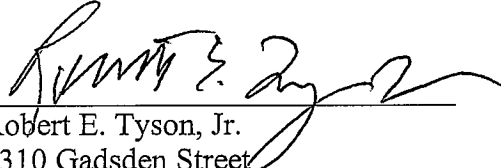
23. Petitioner believes that granting its request to be made a party of record in this proceeding is in the public interest, is consistent with the policies of the Commission in encouraging

maximum public participation in issues before it, and should be allowed so that a full and complete record of this matter can be developed. Intervention at this stage will not prejudice any party.

24. Given the Petitioner's interests as described above, the Petitioner respectfully requests that it be permitted to intervene in this proceeding and the Commission approve Wyboo's request without a hearing. However, if the Commission determines a hearing is necessary, the Petitioner requests that it be presented to present witnesses, arguments and cross examine witnesses in order to protect its interests.

WHEREFORE, for the foregoing reasons, Petitioner respectfully submits this Petition for intervention in the above captioned proceeding and requests that he be permitted to participate with full rights as a party.

SOWELL GRAY STEPP & LAFFITTE, L.L.C.

By: 
Robert E. Tyson, Jr.
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Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorneys for Petitioner

Columbia, South Carolina
July 24, 2007

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

Docket No.: 2007-135-W/S

IN THE MATTER OF:

Wyboo Plantation Utilities, Inc.
Application for Extension of Service Area

CERTIFICATE OF SERVICE

The undersigned does hereby certify that he has served the below listed parties with a copy of the pleadings indicated below by mailing a copy of the same to them via U.S. mail, postage prepaid and via e-mail.

PLEADINGS:

Petition to Intervene by Our Town Development Company, LLC and Deer Creek Plantation Properties Incorporated

PARTIES SERVED:

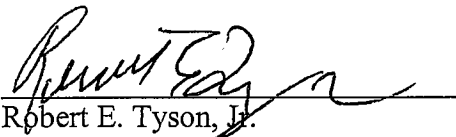
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Mark S. Wrigley
Wyboo Plantation Utilities, Inc.
P.O. Box 2099
Sumter, SC 29151

July 23, 2007


Robert E. Tyson, Jr.